

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
MARSHAL J. MIRVISS, M.D., :
RESPONDENT. :

ORDER 0008512

Division of Legal Services and Compliance Case No. 22 MED 309

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Marshal J. Mirviss, M.D.
Milwaukee, WI 53215

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Marshal J. Mirviss, M.D. (Respondent), (Year of Birth 1949) is licensed in the state of Wisconsin to practice medicine and surgery, having license number 20062-20, first issued on July 15, 1976, with registration current through October 31, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Milwaukee, Wisconsin 53215.

2. At all times relevant to this proceeding, Respondent practiced internal medicine at a clinic located in Milwaukee, Wisconsin (Clinic).

3. On May 31, 2022, the Wisconsin Controlled Substances Board referred Respondent to the Board after Wisconsin Prescription Drug Monitoring Program (PDMP) data identified him

as a top opiate prescriber by volume among all Wisconsin physicians during the fourth quarter of 2021.

4. The Division of Legal Services and Compliance's (DLSC) investigation into this matter involved reviewing PDMP data for patients treated by Respondent from January 1, 2021, through December 31, 2021, and then selecting ten of those patients for further review.

5. Respondent prescribed opioids to all ten patients reviewed.

6. On multiple occasions between January 1, 2021, and December 31, 2021, Respondent prescribed a combination of opioids and benzodiazepines to Patients SH, HF, JJ, SL, LN, and NS. Patient records do not contain documentation of pain scores on multiple dates of treatment. Patient records do not contain documentation of discussion of risks for concurrent use of opioids and benzodiazepines on multiple dates of treatment. Patient records do not contain clear rationale for prescribing both opioids and benzodiazepines on multiple dates of treatment. Patient records do not contain documentation of whether other treatment was recommended or attempted prior to prescribing a combination of opioids and benzodiazepines.

7. For Patients SH, JJ, ZM, and RR, patient records do not contain documentation of a finding of pain on the physical exam.

8. For Patients SH, JJ, SL, ZM, and LN, patient records do not contain documentation of the relief obtained by the patient at each visit where opioids were prescribed.

9. For Patient RR, Respondent prescribed 180 Oxycodone w/Acetaminophen 10-325mg tablets even though an MRI as documented in patient records did not show any abnormalities, Respondent did not perform a back exam, and did not document any finding of pain on a physical exam.

10. For Patient JJ, Respondent did not document whether side effects were present or whether screening for sedation/constipation was considered or occurred.

11. Respondent maintains that he inherited various patients from practitioners who left the practice of medicine and/or his clinic, which patients were on higher dosages of opioids and/or concurrent dosages of opioids and benzodiazepines when he assumed patient care. Respondent further maintains that he has worked to provide quality care to these patients while at the same time reducing the morphine milligram equivalent, and/or the combination of opioids and benzodiazepines for such patients.

12. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3) and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined in Wis. Admin. Code § Med 10.03(2)(c) by prescribing, ordering, dispensing, administering, supplying, selling, giving, or obtaining any prescription medication in any manner that is inconsistent with the standard of minimal competence.

3. As a result of the above conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. Respondent's license and registration to practice medicine and surgery in the state of Wisconsin (license no. 20062-20), is LIMITED as follows:

- a. Within six (6) months of the date of this Order, Respondent shall at his own expense, take and successfully complete the *Intensive Course in Controlled Substance Prescribing* Continuing Medical Education (CME) course offered by Case Western Reserve University School of Medicine for a total of 23.5 AMA PRA Category 1 Credits.
- b. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
- c. The Board's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.
- d. This limitation shall be removed from Respondent's license and registration after satisfying the Board or its designee that Respondent has successfully completed all the ordered education.

4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1083.00.

5. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services

P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dpsmonitoring.wi.gov>.

6. In the event Respondent violates any term of this Order, Respondent's license and registration (no. 20062-20), or Respondent's right to renew his license and registration, may, in the discretion of the Board or its designee, be **SUSPENDED**, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

7. This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

By: Stephan A. Wasserman, MD
A Member of the Board

4/19/2023
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARSHAL J. MIRVISS, M.D.,
RESPONDENT.

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:

STIPULATION
ORDER 0008512

Division of Legal Services and Compliance Case No. 22 MED 309

Marshal J. Mirviss, M.D. (Respondent), and the Division of Legal Services and Compliance, Department of Safety and Professional Services, stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

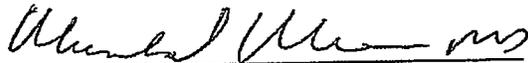
of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

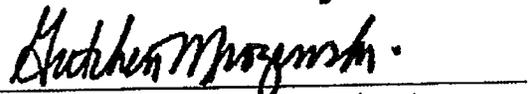
8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Marshal J. Mirviss, M.D., Respondent
Milwaukee, WI 53215
License No. 20062-20

4/3/2023
Date



Gretchen Mrozinski, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

4/7/23
Date